

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 11/25/03

AGENDA ITEM 2

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: An Ordinance Adding Article 15 to Chapter 2 of the Hayward Municipal Code
Relating to Control of Medical Marijuana

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance.

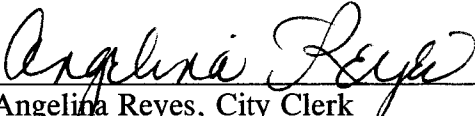
BACKGROUND:

The ordinance was introduced at the November 18, 2003, meeting of the City Council with the following vote:


| | | |
|-----------------|-------------------------|---|
| AYES: | Council Members: | Jimenez, Hilson, Rodriquez, Ward, Dowling, Henson |
| | Mayor: | Cooper |
| NOES: | Council Members: | None |
| ABSENT: | Council Members: | None |
| ABSTAIN: | Council Members: | None |

The ordinance was published in the Hayward Daily Review on November 22, 2003. Adoption at this time is therefore appropriate.

Prepared by:


Angelina Reyes, City Clerk

Approved by:


Jesús Armas, City Manager

Draft Ordinance

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY
COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE ADDING ARTICLE 15 TO CHAPTER 2 OF
THE HAYWARD MUNICIPAL CODE RELATING TO
CONTROL OF MEDICAL MARIJUANA

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS AND PURPOSE. The California Compassionate Use Act of 1996 (the "Act") prohibits qualified patients, upon written recommendation from a physician, and their designated primary caregivers, from being prosecuted for the possession or cultivation of marijuana for medical purposes of the patient. As stated therein, one of the purposes of the Act is to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes. The Act also prohibits punishing, prosecuting or denying any privilege to physicians who recommend marijuana to qualified patients for medical purposes. The Act further calls upon the state and federal governments to develop a plan for the safe and affordable distribution of marijuana for medical purposes. Reports of problems and uncertainties in the ability of law enforcement personnel to enforce the Act, and qualified patients and their designated caregivers to obtain the benefits of the Act, resulted in the enactment of a statewide Medical Marijuana Program (Health and Safety Code Sections 11362.7 *et seq.*). The Medical Marijuana Program creates a comprehensive voluntary state identification card program for qualified medical marijuana patients and their designated primary caregivers that will be administered by each county health department in the State of California, in accordance with the protocols established by the State of California Department of Health Services. It is the intent of the City Council of the City of Hayward to assure qualified patients and their designated primary caregivers, for whom medical marijuana is recommended by a physician that validly issued state medical marijuana identification cards will be recognized and accepted by the City of Hayward.

Section 2. The following provisions are hereby adopted and added to Chapter 2 of the Hayward Municipal Code as Article 15:

ARTICLE 15
MEDICAL MARIJUANA IDENTIFICATION
CARD PROGRAM

Section 2-15.00 MEDICAL MARIJUANA IDENTIFICATION CARD PROGRAM. Existing state law prohibits the prosecution of qualified patients and their designated primary caregivers, who, upon written recommendation of a physician, possess and cultivate marijuana for medical purposes. State law further prohibits the prosecution, punishment or denial of any privilege to physicians who recommend marijuana to qualified patients for medical purposes. As set forth in California Health and Safety Code Sections 11362.7 *et seq.*, the Medical Marijuana Program is a comprehensive, voluntary state identification card program for qualified medical marijuana patients and their designated primary caregivers administered by

each county health department in the State of California, in accordance with protocols established the California Department of Health Services.

The City of Hayward will comply with and abide by the provisions of the Medical Marijuana Program, as set forth in California Health and Safety Code Sections 11362.7 *et seq.*

Section 2-15.01 IDENTIFICATION CARDS ISSUED PURSUANT TO MUNICIPAL OR COUNTY ORDINANCE. Until such time as the state Medical Marijuana Program referenced in Section 2-15.00 is fully operational, the City of Hayward will recognize any valid medical marijuana identification card issued pursuant to an ordinance adopted by the governing body of any California county or municipality. Once the state Medical Marijuana Program becomes fully operational, this section shall be without further force or effect."

Section 3. SEVERABILITY AND VALIDITY. If any section, subsection, paragraph or sentence of this ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 4. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after adoption by the City Council.

Introduced at a regular meeting of the Hayward City Council held November 18, 2003, the above-entitled ordinance was introduced by Council Member Ward.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on November 25, 2003, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. Copies of the full text of this ordinance are available for examination by the public in the Office of the City Clerk, 777 B Street, 4th Floor, Hayward.

DATED: November 22, 2003

Angelina Reyes, City Clerk
City of Hayward